IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 5744 of 2005

Between:

M/s. Polymastics, a Registered partnership Firm rep. by Managing Partner, Sri M.Veeranarayana Reddy S/o Anki Reddy having its Registered Office at 1-779, Dwaraka Nagaar, Kadapa

... PETITIONER

AND

1 The Ministry of Surface Transport, Government of India,

Transport Bhavan, Parliament Street, New Delhi rep by

Secretary

2 The National Highways Authority of India G5 & 6, Sector 10

Dwaraka, New Delhi rep by its Chairman

3 The Director General (Road Development) Ministry of Surface Transport, Transport Bhavan, Parliament Street, New Delhi.

4 The General Manager (DM-II), National Highways Authority of India, G5 & 6, Sector 10, Dwaraka, New Delhi.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction in the nature of Mandamus declaring that the action of the Respondent authorities in not considering and taking necessary action upon the Representations of the petitioner firm dated 8-9-2004 21-10-2004 and the supporting

scientific material attached therewith for including Road safety products made of glass elements within the zone of consideration for the requirements of the Ministry of surface Transport, Government of India on National State Highways, as illegal, arbitrary and opposed to public interest and consequently direct the respondent authorities to consider the same and pass favorable orders thereupon. As the existing specifications exclude the petitioner firm at the very threshold from participating in the Tender process initiated by the 4th respondent, it is necessary in the interest of justice that the same may be stayed pending the adjudication of the WP. it is therefore prayed that this Hon'ble Court may be pleased to stay all further proceedings in pursuance of the Tender Notice No. 16062/452 dated 9-3-2005 issued by the 4th respondent herein pending the disposal of the Writ Petition and pass such other order or orders as this Hon'ble Court may deem fit just and proper.

Counsel for the Petitioner: MR.P.V.SANJAY KUMAR

Counsel for the Respondents: MR.S.S.VARMA (ADDL CGSC)

The Court at the stage of admission made the following:

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ORDER:

The petitioner firm claims to be an authorized distributor of M/s Swareflex, which is involved in the production of Road Safety Products which include reflectors and road marking studs with glass elements in a variety of sizes and designs, which are exported world wide for different applications.

This writ petition is filed aggrieved by the action of the respondent-authorities in not considering the representations of the petitioner firm dated 08.09.2004 and 21.10.2004 for including road safety products made of glass elements within the zone of consideration for the requirements of the Ministry of Surface Transport, Government of India and National/State High Ways. The petitioner states that the products of M/S Swareflex are fixed with unbreakable glass elements which are tested and certified by British standards and American standards and that the Swareflex glass element Road Studs have much higher reflectivity than required by world standards. However, as per the tentative specifications prescribed by the Ministry of Surface Transport, Government of India under its proceedings dated 11-06-1997 the Road Studs were classified into two categories. Whereas Category-A studs are to be used on National Highways and State Highways, Category-B Studs are to be used on minor roads. It is stated that the products of M/s.Swareflex distributed by the petitioner firm which used glass elements are classified under

Category-B and they are excluded from the Zone of eligibility for supply of pavement markers for National / State Highways which are to have Category-A Studs only. The petitioner claims that the abovesaid categorisation is opposed to the findings of the recognised International Agencies and the established Scientific Reports and therefore the petitioner firm submitted a representation dated 8-9-2004 in response to the proceedings of the Ministry of Surface Transport inviting suggestions to the tentative specifications prescribed under the proceedings dated 11-06-1997. The petitioner has also submitted a comprehensive statement of Swareflex Glass Element Products as opposed to prismatic products and also test results of the Federal Research Institute of Germany. The petitioner alleges that the respondents failed to consider the said representation. There is no response so far with regard to the various technical aspects raised by the petitioner firm instead of the superior quality of the Swareflex Road Studs incorporating glass elements. The petitioner has made a further representation on 21-10-2004. The grievance of the petitioner is that while keeping the said representations pending, the respondents have been issuing tender notifications from time to time, the last being 09.03.2005. Hence this writ petition.

Having heard learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and keeping in view the representations made by the petitioner are pending before the respondents, it is not necessary for this Court to express any opinion with regard to the entitlement of the petitioner for inclusion of Road Safety Products, made of glass elements, for the requirements of the respondents. Instead, I deem it appropriate to dispose of the writ petition with a direction to the respondents to consider the representations made by the petitioner.

Accordingly, without expressing any opinion on merits, the writ petition is disposed of with a direction to the respondents to consider the representations of the petitioner dated 08.09.2004 and 21.10.2004 and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of this order. No costs.

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23.03.2005

Note: Furnish C.C in three days.

(B/O)

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To

1 The Secretary, Ministry of Surface Transport, Govt. of India,

Transport Bhavan, Parliament Street, New Delhi

2 The Chairman, National Highway Authority of India G5 & 6,

Sector 10 Dwaraka, New Delhi rep by its Chairman

3 The Director General (Road Development) Ministry of Surface Transport, Transport Bhavan, Parliament Street, New Delhi.

4 The General Manager (DM-II), national Highways Authority of India, G5 & 6, Sector 10, Dwaraka, New Delhi

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